



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

DISMISSED WITH PREJUDICE: February 18, 2009

CBCA 1404

AYLWARD ENTERPRISES, INCORPORATED,

Appellant,

v.

DEPARTMENT OF VETERANS AFFAIRS,

Respondent.

Henry W. Aylward, President of Aylward Enterprises, Incorporated, Aiea, HI, appearing for Appellant.

Stacey North Willis, Office of the General Counsel, Department of Veterans Affairs, Washington, DC, counsel for Respondent.

VERGILIO, Board Judge.

ORDER

On November 13, 2008, the Board received from Aylward Enterprises, Incorporated a notice of appeal regarding contract V786C-520, project 899CM3021, involving the Columbarium Phase 2 work at the National Memorial Cemetery of the Pacific, Honolulu, Hawaii. The notice states that in March 2008 the company requested a decision from the contracting officer. Further, it specifies that the contracting officer has not communicated regarding the request. The appeal is based upon the deemed denial by the contracting officer.

During an initial telephone conference with the presiding judge and the parties, the company, through its president, acknowledged that although it is a subcontractor, it is not the contractor under the referenced contract. After further research into a basis for asserting jurisdiction over this matter, the president informed the Board and opposing counsel during a telephone conference on February 18, 2009, that the company will not be pursuing this matter. The parties agreed to a dismissal with prejudice.

Decision

The Board **DISMISSES WITH PREJUDICE** the appeal.

JOSEPH A. VERGILIO
Board Judge